

OHNA Rulemaking Advisory Committee

Meeting #13 – June 11, 2024

Meeting Notes

(Published July 3, 2025)



The Department of Land Conservation and Development (DLCD) convened a committee of people from across the state to help develop Oregon Administrative Rules (OARs) that will advise the Land Conservation and Development Commission (LCDC) on Goals 10 (Housing) and 14 (Urbanization). The Rulemaking Advisory Committee (RAC) held its fourteenth meeting on June 11, 2025. Members received updates on the housing capacity and urbanization rulemaking process and the Housing Actions Work Group (HAWG).

The meeting was held virtually and hosted over Zoom. The meeting was live-streamed via [YouTube](#) and closed-captioning was provided.

The goals of the meeting were to discuss concepts aimed at making the assessment of vacant, partially vacant, and redevelopable land within cities easier and more predictable; introduce Land Use Efficiency Measures; and review “Adoption-Ready Actions” provided by the state to inform and guide local government implementation of certain Housing Production Strategy (HPS) Actions.

Attendees

Committee Members	Ex Officio Committee Members
Allen Hines	Becky Baxter (Ex Officio)
Ana Molina	Lucia Ramirez (Ex Officio)
Anne Kelly	Megan Bolton (Ex Officio)
Alexandra Ring	Richard Rogers (Ex Officio)
Brian Rankin	Committee Members Not Present
Brock Nation	Benjamin Gurewitz
Chantal Invenso	Brandon Pursinger
Corie Harlan	Cassera Phipps
David Mattison	Dana Hicks (Ex Officio)
Elissa Gertler	Garet Prior
Jessica Blakely	Garrett Stephenson
Julia Metz	Gloria Sandoval
Kathy Wilde	Kelly Hart
Lindsey Hutchison	Mac Cunningham
Mary Kyle McCurdy	Mercedes Elizalde
Miranda Bateshell	Michael Rock (Ex Officio)
Patricia Diefenderfer	Morgan Greenwood
Shane Kwiatkowski	Rachel Mori Bidou
Shannon M. Vilhauer	Rian Vanden Hoof (Ex Officio)
Ted Reid	Samantha Bayer
Terra Wilcoxson	Victor Saldanha
	DLCD
	Aurora Dziadul
	Casaria Taylor
	Celestina Teva
	Ethan Stuckmayer
	Ingrid Caudel
	Jena Hughes
	Karen Guillén-Chapman

	Kevin Young
	Madeline Phillips
	Mari Valencia Aguilar
	Thea Chroman
	LCDC Commission Liaison
	Allan Lazo
	Governor's Office
	Sveta Ambati
	Consultant Team
	Anita keā'lani Yap, MultiCultural Collaborative
	Ben Duncan, Kearns & West
	Ellen Palmquist, Kearns & West
	Steve Faust, 3J Consulting
	Public Participants
	Bryan Pohl
	Jonathan Clay

Key Insights Summary

Barriers to development: Covenants, codes, and restrictions (CC&Rs); seller willingness; infrastructure needs; and other factors limit and delay property development. Many of these factors are outside of a city's control. State regulations can help address restrictive covenants and laws and local actions can incentivize development. Identifying funding for large-scale infrastructure projects continues to be a high priority.

Market feasibility: Regulations to increase the development of housing need to align with market feasibility to reduce unintended consequences of upzoning to increase housing capacity. Additional discussion is needed on safe harbors and when the Land Supply Market Factor should be applied.
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Adoption Ready Actions:

- Cross walking policy objectives for Adoption Ready Actions with other statewide rules, including Climate Friendly and Equitable Communities (CFEC), could help reduce confusion and create standard definitions.
- The rental housing licensing program could increase costs for housing providers and renters.
- Adding “identifying networks” as a step in the affirmative marketing requirement could support finding occupants for open units.
- Consider using property tax revenue to preserve rental housing and support local businesses in underserved communities.

Meeting Notes

Welcome and Meeting Overview

Ben Duncan, Kearns & West, welcomed attendees and viewers and provided meeting guidelines. Ben reviewed the agenda: 1) Welcome and Overview, 2) Racial Equity Framework, 3) Housing Capacity and Urbanization Update and Discussion, 5) HAWG Update, and 6) Closing and Next Steps. Ethan Stuckmayer, DLCD, welcomed RAC members and reviewed meeting goals.

Racial Equity Framework

Anita keā'lani Yap reminded the RAC of the purpose of the [Racial Equity Framework for Decision Making](#), reviewed the components, and asked members to share ideas and thoughts on racial equity during the discussion.

Housing Capacity and Urbanization Update and Discussion

Karen Guillén-Chapman, DLCD, highlighted key components of the OHNA process including determining housing need, identifying local actions to respond to housing need, and tracking and monitoring progress.

Karen provided context for the following question and Ben Duncan facilitated discussion. RAC members responded with the following questions and comments.

- *Which vacant parcels develop quickly in your community?*
- *Which vacant parcels didn't develop for many years, but then did once all of the readily available land was consumed?*
- *Which lots in your community are still vacant and why?*

Comment: We have a subdivision proposal on a lot that has been vacant for 50 years because the owner did not want to sell. The neighborhood is concerned that the lot will become a subdivision. The lot is also in an area of town where the City is considering an Urban Growth Boundary (UGB) expansion.

Karen Guillén-Chapman responded that this is referred to as "property owner willingness to develop" and is a common occurrence.

Comment: We see property owner willingness issues from corporations that acquire land for holdings and don't develop the properties for decades. Companies may buy a larger parcel than they need and leave land vacant so they have the option of developing in the future. We also see this with medical institutions. Commercial CC&Rs can also be an issue in addition to Homeowner Association (HOA) restrictions. We have faced challenges in areas that should be redevelopable for mixed use and multi-family residential. For example, strip commercial areas developed in the 1980s created CC&Rs that restrict development to the commercial agreements of the group. They can have their own design standards and parking agreements regardless of what the city does. There are a lot of legal implications for redevelopment by developers that want to do residential. We have approved development applications for the area and are seeing private sector constraint that is preventing units from being built.

Comment: In Tillamook, the east side can't be expanded because of sewer issues.

Question: Do we have authority to override restrictive covenants?

Aurora Dziadul, DLCD, shared that current state law restricts forward looking CC&Rs against middle housing and HB 2138 would retroactively prohibit CC&Rs that prohibit middle housing development. This has not officially passed and does not address multiunit family housing.

Question: Does the provision passed in the 2019 middle housing bill apply to land zoned to commercial?

Miranda Bateshell, RAC member, responded that it only applies to middle housing. Multifamily residential is still constrained. Affordable housing projects would technically have statutory authority but it's still a situation that could end up in court with members of the CC&Rs.

Comment: Direct legislative appropriations for a development can be problematic if there isn't enough infrastructure capacity. When vetting projects, cities need to consider if there is infrastructure to do the project or if there is an agreement from public works that the capacity exists. These projects can be tens of millions of dollars and will cause friction with housing development.

Comment: We haven't expressly talked about the price of the land. There needs to be a willing seller and a transaction, and the city isn't involved in the willing seller piece. The second issue is the price. Landowners can charge what they want for the land and sometimes the cost of the land plus

infrastructure is prohibitive. Many pieces are involved that are not within the direct purview of the city. This has been an issue when assuming capacity with our Buildable Lands Inventory (BLI).

Comment: A planned community has two lots that never developed because of restrictive condo law. The rest of the area was developed more than a decade ago.

Comment: Pre-development can mean different things in different contexts and there needs to be a plan to secure permits. Community Development Block Grants (CDBG) sometimes have resources for infill infrastructure and there are clocks that get triggered. Environmental review takes time, especially if federal funds are used, and the local land use process can cause delays. If a developer owns the land too early, they can cut off funding stream eligibility. This is a nonprofit dance that can be complicated for smaller scale developers that may not have their own holding company to step in. We have to rely on patient landowners and philanthropic partners for different funding sources.

Karen reviewed the differences between using a prescriptive approach versus a flexible approach for the Housing Capacity Analysis (HCA). She asked RAC members to consider the tradeoffs or consequences of the following approaches.

- A prescriptive approach provides clear direction but may result in overcounting buildable land (“phantom capacity”).
- A flexible approach maintains general guidance and options to account for local conditions, but may result in underestimating available land and more UGB expansions.

Beth Goodman, ECONorthwest, reviewed the BLI process. Jurisdictions start by looking at all land within the UGB where housing is allowed with clear and objective standards and considers constraints including floodplains, slopes greater than 25%, and more. Jurisdictions classify land into mutually exclusive categories including vacant land, partially vacant land, public land, and developed land. The jurisdiction then estimates the capacity of buildable land, land sufficiency, and redevelopment potential. Beth reviewed the different ways jurisdictions can estimate redevelopment potential and noted the concerns with overestimating capacity. Karen reviewed proposed rule amendments for partially vacant land including creating a definition for partially vacant land and developing a safe harbor for identifying and inventorying partially vacant land. DLCD is continuing to work with the Housing Capacity and Urbanization Technical Advisory Committee (CAUTAC) on these items.

Beth explained the concept of phantom capacity and reviewed how it can create challenges for jurisdictions. DLCD is considering approaches to reduce phantom capacity, including a Land Supply Market Factor that assumes not all land will develop over the 20-year period. Karen shared that the Land Supply Market Factor would be optional to use, would apply to land inventoried as partially vacant, and would require local governments to show their work and provide quantifiable validation for the estimated reduction. Beth shared that if a city doesn't have enough capacity, they are required to consider Land Use Efficiency Measures to increase capacity within their UGB. If this still doesn't meet the land need, they may need to consider a UGB expansion. Karen shared that DLCD is proposing adding a definition to administrative rules for Land Use Efficiency Measures and developing a safe harbor for demonstrating that sufficient Land Use Efficiency Measures have been selected. She reviewed timing considerations for adopting Land Use Efficiency Measures including concurrently with the HCA, concurrently with the HPS, or within the first half of the HPS cycle.

Karen highlighted key themes from recent focus groups with agricultural and natural resources interests and developers and lenders. She also asked CAUTAC members to share insights on recent TAC conversations. TAC members shared the importance of figuring out how to reduce phantom capacity in a clear way that can be applied in different jurisdictions. For safe harbors, they noted that cities want clear sideboards, flexibility to be responsive to local conditions, and reduced legal risks.

Ben Duncan asked RAC members the following question and they responded with questions and comments.

As presented, do the proposed rule concepts guiding a jurisdiction's Housing Capacity Analysis help a community:

- *Estimate their residential capacity over the 20-year planning period?*
- *Reduce the phantom capacity in their HCA analysis?*
- *Provide greater clarity and certainty?*

Question: What is a strike price analysis?

Karen Guillén-Chapman shared that this is a way to look at land value and conduct a ratio analysis. There are a variety of models to figure out if land could redevelop.

Comment: The definition of partially vacant land should note where additional land area can be further developed. Someone could build an Accessory Dwelling Unit (ADU) that wouldn't necessarily meet the definition of partially vacant land.

Karen Guillén-Chapman shared that this is similar to the conversations DLCD is having at the TAC level.

Comment: How is the potential for ADUs and detached duplexes accounted for? Are they already on developed land? We're seeing these housing types in communities with middle housing. It is unclear how we account for this potential capacity outside of being an efficiency measure. I hope the conversation doesn't stop at "we have enough land" because different housing types serve different needs and there are actions a city should take to make it easier to develop these housing types even if they have a lot of vacant land.

Karen Guillén-Chapman shared that there is the potential for ADUs through middle housing. Middle housing put in place statutes that allowed a residential zoned district to assume a 3% increase in capacity. Some cities will be able to quantifiably validate a higher capacity. Portland has been doing reports on residential infill and are quantifiably validating that there is increased capacity. If a city has enough land supply or residential capacity, are they done? Cities above 10,000 have a requirement to complete an HPS which must respond to Contextualized Housing Need (CHN) and the Development Ready Land Inventory. Beth Goodman shared that Madras is smaller than 10,000 people and has gone above and beyond by allowing ADUs, missing middle housing, and small-scale multifamily housing in all of its residential zones. ADUs are difficult to estimate, and production is slow for many cities. We look at historical production and try to account for ADUs in a clear way in the analysis. Detached duplexes are also difficult to estimate and will have to be accounted for in some way. We need better data that allows us to differentiate between a duplex and a detached duplex. The RAC member responded that you can document this in cities with an HPS.

Comment: I share the concern that not all partially vacant land is likely to develop over 20 years. Is CAUTAC considering new barriers? 85% of builders don't feel like they can give accurate estimates right now and trades people are struggling. There is a lot going on right now that we're not used to seeing in past historic cycles.

Karen Guillén-Chapman responded that cities can factor economic trends into the Land Supply Market Factor in Washington. DLCD has discussed this and will continue to consider how to navigate it.

Comment: There is a delicate balance between the work we are doing and market feasibility in terms of what can be realized for construction. In our efforts to be progressive we might be in a different place than the market. One of my concerns is about the proposed language for having at least a 20% increase in the achieved average density of residential development. I'm not sure if average density has gone up that much over 20 years and I'm concerned about the expectation of it going up that much every six years. If we over zone and have a minimum density that isn't achievable, it will freeze development, and we will not be able to expand our UGB. This will bring construction to a halt. It is great to be progressive and idealistic, but we don't want to push our regulations so far that we make it impossible for the market to construct housing. CAUTAC needs to spend more time on safe harbor language and consider if the average achieved density is the measure we want or if it's how much progress the city is making.

Karen Guillén-Chapman responded that the language needs more work and clarified that the intent is for this to reflect what is within a city's control. This is a city's estimated increase in capacity and what could potentially be achieved. The safe harbor is also optional. The RAC member responded that the language does not offer certainty or clarity and cities may end up guessing if their Land Use Efficiency Measures are enough. They shared concerns about pushing cities to overestimate and over assume capacity.

Comment: I lean towards "flexible" because we are here for the housing crisis. That includes the supply of buildable land and not overestimating capacity within UGBs for a variety of reasons. This proposal seems to only apply to partially vacant land and it's also the most difficult to work with. Cities are predicting what is going to happen on every piece of land in the next 20 years and flexibility is a good idea. The other concepts are headed in the right direction. A reasonable safe harbor for the Land Supply Market Factor is a good place to go to avoid analysis paralysis. If you want to make this easier and faster, assume a percentage of the BLI will not develop and identify a reasonable factor we can agree to. If a city wants to go beyond this, they can take another track and it can be questioned and appealed as part of the normal process.

Comment: There are situations where we know land isn't going to develop. Applying this more broadly makes sense. For the safe harbor thresholds, if we were previously looking at a 20-year planning cycle with 1% per year, we could scale this down based on the 6–8-year HPS cycle. If you have a city that has enough buildable acreage and is not going to need to expand their UGB, maybe they are not required to use a Land Supply Market Factor because they have enough capacity. If a city has insufficient capacity the Land Supply Market Factor should be applied to address phantom capacity.

Comment: We are looking at historical patterns of inequity that have led to a lack of housing production. Throughout most of America, 60-75% of the land mass is devoted to single family homes. There may be a housing unit that is not available because it doesn't meet HOAs or an ADU isn't allowed. We have implemented missing middle housing and other policies to improve capacity. When it comes to Land Use Efficiency Measures, how can we pivot from historical inequities and make the best of the situation? This will require pushing the cultural envelope. During Covid-19, the population of cities decreased even though housing units were occupied. Is there a program a city could use to allow people aging in place with no relatives to donate their single-family homes? These homes could be used by a non-profit organization as a community land trust to rehouse people in established neighborhoods. This would reduce the need for new infrastructure because the house already exists. For partially developed land, could people tent or have an RV on their property? We need to think about how to utilize single-family homes efficiently.

Karen Guillén-Chapman responded that she has seen non-profit organizations use home share programs. These are great production strategies. We are here to address one piece of the housing crisis that includes land use regulations and the urbanization and housing capacity analysis required in periodic housing planning work. These ideas are spot on and we have seen cities incentivize similar programs.

Comment: Recommend not using “Land Use Efficiency Measures” in the definition of Land Use Efficiency Measure. In addition, I’ve been considering if Land Use Efficiency Measures should only include land use actions or if there are other components that could play into this. If a city over zones and the market can’t meet the increased capacity a city could provide a financial incentive, like a 15% property tax break, to increase the possibility of development. Numbers will fluctuate from jurisdiction to jurisdiction. Any measure that decreases the need for more land is a land efficiency measure. We could remove “use” from Land Use Efficiency Measures.

Comment: Is DLCD still considering setting caps for the percentage of land that is redeveloped and using this in the redevelopment analysis?

Karen Guillén-Chapman shared that DLCD has not, and is not considering capping the capacity of buildable land from redevelopment in the BLI and referred the RAC member to the background memo on redevelopment ECONorthwest produced. She also offered to follow-up outside of the meeting. The RAC member responded that redevelopable land is a substantial part of the land base for the City of Portland and a cap presents challenges. Karen responded that the Portland metropolitan region is unique and recommended connecting with their CAUTAC member and DLCD.

Public Comment

Ethan Stuckmayer opened public comment and Ben Duncan reviewed public comment guidelines. The following public comments were shared.

- **Jonathan Clay, Multifamily NW:** Multifamily NW is strongly opposed to any rental housing licensing program that is part of the multi-page packet related to this morning’s meeting. Rental registries add another layer of licensing fees and penalties that will increase costs and administrative burdens for housing providers and renters. These policies will force reasonable housing providers to navigate a complex new system and do little to address the root causes of Oregon’s housing crisis such as supply shortages and the rising costs of development. Rental housing licensing programs are often justified to implement housing inspection programs that are not that efficient nor fair in practice. These costly inspections are often duplicative and regular inspections are already required by many companies for insurance purposes or the inventory of affordable subsidized units which have their own compliance responsibilities for regular inspections. We encourage the advisory committee to strike suggestions to implement these registries in local jurisdictions that we believe will create a difficult patchwork of compliance for housing providers with additional licensing fees and penalties that drive up operating expenses that unnecessarily lead to higher rents. These programs disincentivize the further investment in building housing that we need to reach the Governor’s goal of 36,000 units annually to catch up with Oregon’s housing demand. I appreciate your time and attention this morning and I’m happy to answer any questions. Thank you for your time.

HAWG Update

Thea Chroman, DLCD, shared an update on the development of adoption-ready actions. She reviewed the working definition of Adoption Ready Actions and noted that they are outside of land use actions. Thea shared the list of criteria used to develop the Adoption Ready Actions and the framework for categorizing actions. Next steps include developing tool modules and producing a generalized legal sufficiency review.

Thea shared that DLCD is interested in how the Adoption Ready Actions respond to the HAWG work group policy objectives and the Racial Equity Framework for Decision-Making.

Ben Duncan asked RAC members the following questions and they responded with questions and comments.

- *Do you see support for some or all of the following policy objectives across this first slate of adoption-ready actions?*
- *What should staff consider in refining and implementing ARAs to ensure as much alignment as possible with DLCD's Racial Equity Framework for Decision-Making?*

Comment: The action that best aligns with high opportunities is 1a. This is the only action that specifically addresses high opportunity areas and prioritizes the disposition of surplus land. You don't need to develop infrastructure, and you achieve the high opportunity goal. This is also the most promising action for racial disparities because if you can get people back to the core of the city where there are opportunities, you are doing what we need to do. I strongly support 1a.

Comment: CFEC rules require cities to plan for and create new mixed-use areas to accommodate up to 30% of mixed-use housing. Some of these may or may not be in high opportunity areas. If we are planning for more housing and more equitable housing, we need to recognize climate friendly areas because cities will be planning for capacity in these areas and we don't want the rules to diverge. Policy objectives should recognize other drivers in state rules.

Thea Chroman asked if any Adoption Ready Actions speak to climate friendly areas and if DLCD could focus on producing more actions that respond broadly to policy objectives. The RAC member responded that the initial list of Adoption Ready Actions had some legal issues, but the top-notch actions like system development charge (SDC) deferrals and non-profit property tax exemptions can work in all cases. Ethan Stuckmayer asked if there are any gaps in the Adoption Ready Actions. The RAC member responded that it's not about individual actions as much as the framework. If we're trying to create mixed use areas, that should be included as part of the framework. The actions themselves look like they will mostly work citywide. Celestina Teva added that the HAWG has been discussing locational considerations of climate friendly areas and high opportunity areas.

Comment: Most actions have been supported, except the rental housing licensing program.

Comment: The actions seem to be promoting density which will help accessibility. Having denser neighborhoods and nearby services helps a spectrum of our population, including lower income communities. We have heard that landlords and others have a hard time finding people with disabilities to fill accessible units. Having an affirmative marketing plan will help support people with disabilities and other marginalized communities.

Comment: My understanding of the policy objective around high opportunity areas is to bring housing opportunities to areas of affluence. It might be helpful to crosswalk how we define opportunity in climate friendly areas and to make sure there is a common definition that can be used across regulations.

Anita asked the RAC to consider unintended consequences of the Adoption Ready Actions on communities of color or people who need affordable and accessible housing.

Comment: Increasing costs for housing providers can translate to higher rents. Anything that raises costs for providers or developers will be tough and the rental housing licensing program does this.

Comment: You could increase accountability for affirmative marketing by requiring the identification of networks within the city that can be used to get the word out about housing units. This would increase

responsibility and needs to go beyond the initial use and sale. Every time a unit turns over, they should be made available first to the people the list targeted.

Comment: Actions need to address the potential displacement of residents and the potential lack of investment in areas where residents may want to stay. Consider how to incentivize investment in areas that have not received investment. There was a framework around anti displacement that we don't see reflected in the current actions. These types of actions are much more difficult to develop and something we should pay attention to.

Comment: I've seen concepts from other places where increased property taxes and revenue is given back to the community to help generate wealth. This could include giving back to local businesses and long-term residents and investing in the preservation of rental properties without displacing residents by increasing prices. A number of these reduce the money coming into a city's budget and city funding is extremely tight. We are receiving very little money from the state and federal government and the cost to provide services is extremely high. This constrains our ability to do the work. Exemptions are very difficult because we need revenue to pay for the things our citizens need and deserve. We need to consider how to redirect money as opposed to cutting off funding streams.

Closing and Next Steps

Ethan thanked the RAC members for their participation and reminded them to email DLCD at housing.dlcd@dlcd.oregon.gov with any comments or questions. He shared that the next RAC meeting is July 9 from 9am-12pm followed by a meeting in August. DLCD will draft rules for the RAC's consideration in August and move through the public comment process in October.